

EXHIBIT B (PART 1)

Volume I
Pages 1 to 186
Exhibits 1 to 16

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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EQUAL EMPLOYMENT OPPORTUNITY :
COMMISSION,                   :
    Plaintiff,                 :
:                               :
JOHN BALDWIN, LEONARD BELL,    :
JOHANNES KAINDOH, WAYNE       :
HENDERSON, GODWIN ENAGBARE    :
and JOE L. WILLIS,           :
    Intervenor-Plaintiffs,    :
:                               :
    -against-                  :
:                               :
WASHINGTON GROUP              :
INTERNATIONAL, INC., RON      :
BENNETT, MICHAEL FOGARTY and  :
DENNIS WOODRUFF,              :
    Defendants.               :
:                               :
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C.A. No
04-12097-GAO

DEPOSITION OF WARREN R. ANDERSON, a witness called on behalf of the Plaintiff, taken pursuant to the Federal Rules of Civil Procedure, before Ken A. DiFraia, Registered Professional Reporter and Notary Public in and for the Commonwealth of Massachusetts, at the Offices of Equal Employment Opportunity Commission, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts, on Wednesday, April 12, 2006, commencing at 10:07 a.m.

PRESENT:

Equal Employment Opportunity Commission
(by R. Liliana Palacios, Esq.)
John F. Kennedy Federal Building,
Room 475, Government Center, Boston, MA
02203-0506, for the Plaintiff.

1 think it assumes that all those things are within
2 the labor relations function.

3 MS. PALACIOS: Fair enough.

4 Q. If you understand the question, I would
5 like you to answer it.

6 A. Yes, with a clarification. If it was an
7 EEO issue, they would call the EEO officer of the
8 company.

9 Q. Who is the EEO officer?

10 A. Mike McDaniel.

11 Q. Mr. McDaniel, does his position fall within
12 any particular department or organization within
13 WGI?

14 A. I actually don't know the answer to that
15 question.

16 Q. Is there a human resources department at
17 WGI?

18 A. Yes.

19 Q. Do you know who the head of that department
20 is?

21 A. Karen Ogden I believe is her name. She's
22 in Boise, Idaho.

23 I need to clarify that, too. We also have
24 a benefits section, which kind of divides human

1 resources in two parts. A Mr. Roger Allen runs that
2 side of it.

3 Karen is the primary person, though, for
4 human resources issues.

5 Q. Do you happen to know if anybody reports to
6 Mr. McDaniel?

7 A. I believe he has an assistant. He does
8 have an assistant, Nancy, but I don't recall the
9 last name.

10 Q. Do you happen to know who Mr. McDaniel
11 reports to, if anybody?

12 A. I don't actually know.

13 Q. Could you tell me a little bit about -- I
14 suspect you do a lot of things, and you can take as
15 much time as you want, but give me a snapshot of the
16 duties you have as labor relations director.

17 A. The primary duties would be as follows. We
18 obviously pursue a lot of new work around the United
19 States all the time with various clients. When we
20 are in the pursuit of a project, I'm always involved
21 at the front end.

22 We have to make a labor relations
23 evaluation, how do we want to do this job, should
24 the job be done union for whatever variety of

1 Q. Do you ever work on the drafting of
2 policies and procedures related to work at all?

3 A. As a clarification, would you mean for a
4 field job, for instance, or a corporate?

5 Q. Actually, good clarification point. I
6 meant both. Let's start with corporate policies.
7 Are there corporate policies related to work at WGI?

8 A. Yes.

9 Q. With respect to those policies, are you
10 ever involved in the drafting of those policies?

11 A. The labor relations policies we have have
12 been really in place and unchanged for some time.

13 When I went to Boise in the '98, '99 time
14 period, I redid the administrative bulletin we have
15 for our department for labor relations for the
16 company just to make some changes that I thought
17 needed to be updated.

18 We have a labor relations manual. We have
19 an industrial relations manual. Those have stayed
20 the same for a number of years.

21 We do have a web page on our company page
22 for labor relations. There's an individual in Boise
23 who actually does the physical activities, physical
24 work of making changes to it. I update that

1 periodically.

2 We have new interpretations of the general
3 president's agreement and the national maintenance
4 agreement that come in periodically, and those have
5 to be updated. We keep our website updated. That
6 would be part of a policy I think or procedure, to
7 answer the question.

8 Q. With respect to EEO situations, you
9 mentioned that Mr. McDaniel oversees that area. Do
10 you ever have to handle EEO matters in your
11 position?

12 A. Not normally. What will typically happen
13 right now is I may get a call from a project
14 manager, for instance, and if he does have an EEO
15 situation, I may advise him, but what I will always
16 do is tell him to call Mike. He's the EEO
17 professional in the company. I'm not.

18 Q. Do you happen to know who Mr. McDaniel's
19 predecessor was, if he had one?

20 A. Well, I'm not sure. Let me clarify the
21 answer for you. Mike came from the Raytheon E&C
22 side. During the '90s, I recall an individual by
23 the name of "Woody Burge" that handled EEO matters.
24 He had a couple of assistants, too, out of Boise. I

1 don't recall their names now.

2 In the '80s, we had an individual named
3 "Tiny Gaines," who I had quite a bit of contact with
4 while I was on my field sites in the '80s.

5 Q. With the exception of Mr. McDaniel, who
6 handled EEO matters, do each of the projects sites
7 have an EEO representative?

8 A. No, they don't.

9 Q. To the best of your knowledge, it would be
10 the project manager that would deal with the issue
11 either by contacting you, or Mr. McDaniel probably
12 more so?

13 A. Yes.

14 Q. Are you familiar with the WGI corporate
15 labor relations manual?

16 A. Yes.

17 Q. I will just represent to you that it was
18 produced to us in response to one of our document
19 requests. I have it in front of me.

20 How have you become familiar with this
21 manual?

22 A. Using it for reference material over the
23 years.

24 Q. When was the last time you referred to it,

1 if you recall?

2 A. I had a question come to me on a project we
3 were bidding towards the end of last year that was
4 going to involve dual gates, because we were going
5 to have union and nonunion contractors possibly on
6 the job. We have a section on that on dual gates,
7 in that manual.

8 Actually, we have two manuals. One is
9 industrial relations, and the other one is labor
10 relations. That would have been the last time I
11 probably looked at one of those, in that time
12 period, but I have used them throughout the years.

13 Q. Have you ever read it in total?

14 A. I would have read it in total as a result
15 of using it over the years for very general
16 research.

17 Q. Do you know who would be responsible for
18 maintaining that policy or making revisions to that
19 policy, if anyone?

20 MR. PATERNITI: Objection. You mean
21 manual? You said, "policy."

22 MS. PALACIOS: I meant manual.

23 A. You mean the manual?

24 Q. Yes.

1 A. If it were going to be changed, I would
2 probably be assigned that task.

3 Q. Have you ever made any changes to that
4 manual?

5 A. I have not.

6 Q. Or have you ever recommended any changes to
7 that manual?

8 A. We made some minor changes to it when we
9 purchased Raytheon E&C. We had to remove
10 Morrison-Knudsen.

11 Q. Any substantive changes to the policies
12 that you can recall?

13 A. Not that I recall, no.

14 Q. Have you ever recommended any substantive
15 changes to the policies in the manual?

16 A. No.

17 Q. Is that because you think generally they
18 are acceptable?

19 A. Yes.

20 Q. Do you get evaluated? Does your
21 performance get evaluated on any regular basis with
22 WGI?

23 A. Every year.

24 Q. Who does your review, if anyone?

1 A. Is Cakrane.

2 Q. Does anyone give input into your review?

3 A. Is Cakrane.

4 Q. Just him?

5 A. Yes.

6 Q. I have in your personnel file a lot of your
7 performance reviews from Morrison-Knudsen and not
8 that many from WGI. I'm asking this question, which
9 is do your performance evaluations with WGI allow
10 you to give any feedback or input about your
11 performance?

12 A. Yes. There's a section in there that
13 allows for that.

14 Q. Do you know where WGI keeps most of its
15 personnel files?

16 A. I believe in Boise.

17 MS. PALACIOS: Can we take a five-minute
18 break.

19 (Recess at 11:25 a.m.)

20 BY MS. PALACIOS: (11:40 a.m.)

21 Q. Mr. Anderson, you told me earlier about a
22 case in which you are involved right now having to
23 do with the Weymouth site and Ms. Sandra Williams?

24 A. Yes.

1 what the salary range for that is, if you know.

2 A. I would have to speculate. I can't say
3 specifically what they are.

4 Q. Agreeing to keep your salary confidential,
5 what is your salary currently at WGI?

6 A. \$121,000 a year.

7 Q. Do you have any other compensation at WGI?

8 A. No, I do not.

9 Q. Do you know how many employees WGI
10 currently has?

11 A. Approximately 25,000 worldwide.

12 Q. Do you know approximately how many of those
13 are in the U.S.?

14 A. Probably around 20,000. That's going to be
15 all grades and classifications. That will include
16 craft workers and projects, also.

17 Q. So that includes any union employees?

18 A. That's correct.

19 Q. Is it fair to say that you are the sole
20 labor relations person with responsibility in the
21 United States for 20,000 people.

22 A. Well, 20,000 people won't have a labor
23 relations problem. It will probably be a few
24 hundred.

1 Q. But you have that responsibility should
2 they have any?

3 A. Absolutely.

4 Q. This doesn't require a response, but you
5 have a tough job.

6 A. Thank you.

7 Q. You talked to me a little bit about EEO
8 training that you received. I just want to break
9 that down a little further. Have you ever received
10 any training in cultural diversity or diversity type
11 training?

12 A. Not that I can recall.

13 Q. What about training with respect to
14 anti-discrimination policies, whether state or
15 federal?

16 A. Yes. Part of that training I related to at
17 Oak Ridge covered those issues.

18 Q. Was that the only training you ever
19 received on anti-discrimination policies?

20 A. Any kind of formal training, yes.

21 Q. I want to focus now on the Sithe Mystic
22 powerplant project. I'm just going to call it
23 "Mystic." That's what I mean when I say that.

24 I understand you were the labor relations

1 A. I find in my experience it's fairly general
2 knowledge.

3 Q. Have you participated in any training where
4 project managers or managers of different sites are
5 given the reduction in force policies and procedures
6 for WGI?

7 A. I have done labor relations training in my
8 past for several sites.

9 Q. Did you do that type of training focusing
10 on reductions in force issues at Mystic?

11 A. No, I did not.

12 Q. Do you know if anybody else did?

13 A. Not to my knowledge.

14 Q. While you were at Mystic, did you have the
15 authority to hire employees?

16 A. Not in the sense that I believe you asked
17 the question. When you are operating on a union job
18 with referral procedure with the local unions, it's
19 critical to have only one person that's designated
20 to call the local unions to order craft workers. I
21 did that.

22 The field supervision would generate a
23 request form, say, "Electricians, five," and I would
24 call the hall.

1 Q. Did anyone else perform that function while
2 you were at Mystic?

3 A. No, to my knowledge.

4 Q. Who in the field would decide that
5 additional staff was necessary?

6 A. Supervisors, engineers, depending on the
7 flow of the work.

8 Q. For example, within the project where there
9 were electricians working, my understanding is that
10 there were foremen that handled different parts of
11 the job. Would a foreman at Mystic have the ability
12 to say, "I need more workers"?

13 A. He or she could suggest it.

14 Q. Who would he or she suggest that to?

15 A. Generally it would be his -- he might go
16 through his general foreman for the suggestion, who
17 would then go to possibly the assistant
18 superintendent or the superintendent.

19 Q. Who would you ultimately hear from in the
20 actual request form that you mentioned?

21 A. The superintendent himself, he or she.

22 Q. Did you have the authority at Mystic to
23 terminate employees yourself? Like if you saw
24 something on the site that you thought was a

1 violation of any rule, did you have that authority?

2 A. I did not have the authority to terminate
3 myself, no.

4 Q. Did anyone at that site have the authority
5 to terminate employees?

6 A. That would be the chain of command from the
7 general site manager on down. Several of the
8 superintendents did.

9 Q. Were decisions to terminate to your
10 knowledge made by individuals or by groups of
11 individuals normally at Mystic?

12 MR. PATERNITI: Objection.

13 A. I don't understand the question.

14 Q. I'll clarify. A superintendent would have
15 the authority to terminate an individual on their
16 own?

17 A. Yes.

18 Q. The reason I asked is because you seemed to
19 qualify your ability to terminate individuals as on
20 your own. Were you able to terminate individuals or
21 employees with somebody else in the decision?

22 A. No. I'm...

23 Q. You are lost?

24 A. Yes.

1 Q. I'll withdraw the question completely.
2 Let's forget that and move on.

3 With respect to discipline of employees,
4 were you aware of whether or not WGI had at the
5 Mystic site a disciplinary policy or procedure that
6 it followed?

7 A. Yes. We had job rules.

8 (Document marked as Anderson
9 Exhibit 2 for identification)

10 Q. I'm showing you what was marked as Exhibit
11 No. 2 in your deposition. You mentioned job rules.
12 Are these the job rules that you were referring to
13 that were used at Mystic?

14 A. (Examines document) Yes.

15 Q. You can take time to look at it fully
16 before you answer. At the bottom of the page marked
17 248, which is the second page of what you have in
18 front of you, there's a bottom section that says,
19 "WGI's disciplinary procedure consists of the
20 following steps"?

21 A. Yes.

22 Q. Is this what you understood to be the
23 disciplinary procedure that was used at Mystic while
24 you were there?

1 A. Yes.

2 Q. Do you know when employees received this,
3 if at all, at Mystic?

4 A. When they are oriented in. We also had it
5 posted.

6 Q. Can you indicate on that map that you drew
7 maybe with this blue pen with a "P" where on the
8 site any postings like the job rules would have been
9 or were.

10 A. (Witness complies)

11 Q. You indicated the "P" right on the
12 powerplant site. To the right there's a little "X."
13 What is that?

14 A. That's the front gate, the main gate.

15 Q. Were you authorized at Mystic to discipline
16 employees if necessary?

17 A. Not by myself, no, not on my own.

18 Q. Did you have occasion to discipline
19 employees while you were at Mystic?

20 A. I would be asked by site management my
21 opinion. I would give my opinion. The site
22 management would then either agree with what I
23 thought or not.

24 Q. Is it fair to say then that the site

1 management would make the decision to discipline?

2 A. Yes.

3 Q. So is the answer to the question as to
4 whether or not you had occasion to discipline while
5 at Mystic yes? In other words, did you actually
6 have involvement in disciplining employees while you
7 were at Mystic?

8 A. I would be asked my opinion on a certain
9 matter. Then management would either take that
10 opinion and consider it or reject it.

11 Q. Fair enough. Do you know the policy, if
12 any, that WGI had at Mystic about whether to
13 document verbal warnings?

14 A. They had a small form that the field
15 supervision had that was a triplicate, as I recall,
16 that was used for that purpose.

17 Q. Verbal warnings were supposed to be in
18 writing?

19 A. They were supposed to have been documented
20 in some manner.

21 Q. Was that documentation to be kept in the
22 employee's personnel file?

23 A. It was supposed to be sent to the personnel
24 file.

1 Q. Is there any other place that those types
2 of warnings would have been kept?

3 A. They may have been kept in the foreman's
4 logbooks or desk.

5 (Document marked as Anderson
6 Exhibit 3 for identification)

7 Q. I'm showing you Exhibit 3 in your
8 deposition. This is actually a copy of what looks
9 to be a Reprimand: Safety Violation. Does this
10 look like the type of slip that you were describing
11 that went with a warning at Mystic?

12 A. (Examines document) Yes.

13 Q. Was there any other warning slip that you
14 recall that is not this one that's in front of you
15 right now?

16 A. Not that I recall.

17 Q. If you look at this form with me, would you
18 agree with me that there's no area here for the
19 employee's response to the warning?

20 MR. PATERNITI: Objection. Go ahead.

21 A. That's correct.

22 Q. Do you know why there isn't a space for the
23 employee to respond on this form? You may not,
24 but...

1 A. No, I don't know.

2 Q. Do you happen to be familiar with what the
3 policy for rehire was at Sithe Mystic?

4 A. Can you be more specific.

5 Q. Sure. From my review of the documents in
6 this case, I understand that there's a termination
7 form that is generated when someone is terminated.
8 I'm using termination with a broad meaning, RIF, for
9 cause, et cetera. There's a little box on the form
10 that says either "Eligible for rehire" or not. Are
11 you familiar with what I'm talking about?

12 A. Yes.

13 Q. Is there a policy to your knowledge that
14 was adhered to at Mystic with respect to the
15 decision whether to allow somebody to be rehirable
16 or not?

17 A. There was not a written policy for that,
18 no.

19 Q. Was there any procedure that was followed,
20 although perhaps not written, to decide whether or
21 not someone was eligible for rehire?

22 A. No.

23 Q. Is it fair to say it was based on the
24 discretion of the individual who made the decision

1 to terminate?

2 A. It would have involved the foreman and the
3 superintendent, certainly.

4 Q. You think it just might be discretionary?

5 A. Certainly could be, yes.

6 Q. I want to switch gears and actually spend a
7 couple of minutes talking to you about
8 subcontractors on the site.

9 Again, not being someone that has your
10 experience and knowing what happens on these
11 construction sites, can you try to explain to me
12 what the relationship is between WGI, focusing on
13 the Mystic site, and the subcontractors that were on
14 the site.

15 A. The subcontractors would have a contract
16 for a particular construction activity with us
17 directly.

18 Q. Who negotiated the contracts between WGI
19 and the subcontractors, if you know?

20 A. I don't have any idea.

21 Q. Did you have any responsibility for that at
22 all?

23 A. No.

24 Q. If a subcontractor had a crew on-site that

1 was doing something unsafe, would WGI have the
2 ability to stop that unsafe practice?

3 A. Yes.

4 Q. Would WGI have the ability to terminate
5 employees for violating safety policies that were
6 employees of the subcontractor?

7 A. Not directly, no.

8 Q. How would that work?

9 A. There would be a conference between us and
10 the actual employer.

11 Q. My understanding is that at Mystic, there
12 were about 100 or so subcontractors on-site at any
13 given time. Is that true?

14 A. Yes. If you include some suppliers, it is
15 possible there were that many. The actual
16 construction subcontractors were less than 100,
17 though.

18 Q. How many do you think there were of actual
19 construction subcontractors?

20 A. A dozen, two dozen, depending on the time
21 of the job.

22 Q. Do you have an understanding as to whether
23 or not WGI had control over the site as general
24 contractor or prime contractor that exceeded that of

1 the subcontractors?

2 MR. PATERNITI: Objection.

3 Q. Do you understand the question?

4 A. Would you ask it again.

5 Q. Sure. My question is this. I'm trying to
6 see if I can say it more clearly. Actually, let's
7 just stop there. I will reformulate my question.
8 Let me go back.

9 With the construction subcontractors that
10 were on-site, the 12 or more that were on-site at
11 any given time, were there individuals that were
12 responsible for sort of being in contact with WGI on
13 a regular basis?

14 A. Yes.

15 Q. Who was that particular title or person?

16 A. It generally would be the top field
17 individual that that subcontractor had assigned to
18 the job.

19 Q. What kind of relationship was that person
20 required to have with WGI? Was it like a daily
21 reporting responsibility?

22 A. Yes, yes, yes.

23 Q. Was that daily reporting related to more
24 than just job performance?

1 A. It would be primarily job cost and schedule
2 performance.

3 Q. Do you know of any occasion where any of
4 these subcontractors reported more than just job
5 cost and schedule performance?

6 A. No.

7 Q. These individuals wouldn't report to you
8 directly?

9 A. No.

10 MS. PALACIOS: I think this is a good time
11 to break for lunch. Off the record.

12 (Discussion off the record)

13 (Recessed for lunch at 12:50 p.m.)
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1 AFTERNOON SESSION (1:35 p.m.)

2 WARREN R. ANDERSON, Resumed

3 BY MS. PALACIOS:

4 Q. We are back from the lunch break. Before I
5 continue my questioning, Mr. Anderson, I wanted to
6 follow up on a couple of things.

7 First, I asked you previously whether you
8 ever requested hiring additional labor relations
9 staff, that line of questioning. I just wanted to
10 ask you as to who, if you know, has the final
11 decision as to whether to hire additional labor
12 relations staff or professionals?

13 A. At that particular project you mean?

14 Q. In general at WGI.

15 A. It would be Is Cakrane.

16 Q. To the best of your ability, could you tell
17 me what the duties are of a project manager.

18 A. Run the project, every aspect of it. He or
19 she would have final authority and responsibility
20 for every aspect of the job, and the relationship of
21 the client.

22 Q. So that includes actual performance of the
23 work on-site, whether or not the actual project is
24 produced?

1 A. He or she would have a staff to carry out
2 those individual functions.

3 Q. How many staff work with the project
4 manager on most sites? I suspect it changes.

5 A. I have seen projects with three individuals
6 up to 200, 300, depending on the magnitude of the
7 job.

8 Q. Do you have any understanding as to why
9 you, Warren Anderson, were sent to Mystic? Was
10 there a reason you were sent, or was it just part of
11 your duties?

12 A. There was a reason.

13 Q. What was the reason?

14 A. After September 11th, just as a little
15 background, we had a lot of budget cuts in the
16 company, and the Cleveland office where I was
17 located at suffered that particularly hard.

18 The budget for labor relations was
19 eliminated. I had an administrative aide that
20 worked with me, and I had to lay her off.

21 Proximate to that time, the labor relations
22 person here on these two jobs decided to resign.

23 Q. Who was the labor relations person on these
24 two jobs here that decided to resign?

1 A. Ken McDaniels, no relation to Mike.

2 Q. Was Mr. McDaniels employed by WGI?

3 A. Yes. He came from the Raytheon E&C side.

4 Q. Right before lunch, as a result of I think
5 low sugar, I was struggling with the question, which
6 I think I revised.

7 The question I was trying to get at was
8 what your understanding was with respect to the
9 Mystic site as to the scope of control that WGI had
10 over the work performed by the subcontractors.

11 MR. PATERNITI: Objection. Go ahead.

12 Q. You can answer if you can, or if you don't
13 understand the question, I'll ask it differently.

14 A. No. I believe I understand your question.

15 As part of each subcontractor's contract
16 with us, they would have a defined scope of work.
17 That scope of work may change from time to time. If
18 so, you would have change orders negotiated between
19 the parties.

20 Our field supervision, the superintendents
21 I had mentioned earlier, part of their
22 responsibility was to oversee the actual field
23 construction activities that the subcontractor was
24 producing.

1 We didn't run the subcontractor. The
2 subcontractor is an independent employer that has a
3 contract with us to perform a certain activity
4 within a set period of time for a set amount of
5 dollars.

6 Q. Same question, but this time with respect
7 to the conduct of their employees. In other words,
8 what is your understanding, if any, about the
9 control that WGI had over the conduct of
10 subcontractor employees at Mystic?

11 A. We would have no control over those
12 employees. Those are employees of an employer. We
13 were not dual employers.

14 If we had a problem with an employee, we
15 would have to engage the subcontractor in
16 discussions or conversations about how to possibly
17 solve the problem. I mean that in a very general
18 sense. They are expected to manage their own
19 people.

20 Q. I'm just looking for a yes or no answer, if
21 you can do it, to the following question, which is
22 did you ever have occasion to deal with the
23 subcontractor on an issue related to an employee's
24 conduct at Mystic, a subcontractor's employee?

1 A. If the question is their conduct, no.

2 Q. Were you ever involved in a situation where
3 a subcontractor wasn't performing their work
4 requirement appropriately and there had to be some
5 discussion between WGI and the subcontractor?

6 A. As to the performance of their contract do
7 you mean?

8 Q. Correct.

9 A. No. I was not involved in those
10 discussions.

11 (Document marked as Anderson
12 Exhibit 4 for identification)

13 Q. I'm showing you what was marked as Exhibit
14 No. 4 to your deposition. Can you just tell me if
15 you have ever seen this document before.

16 A. Yes, I have seen it before.

17 Q. Have you ever used it through the
18 performance of your work duties at WGI?

19 A. I have not.

20 Q. Do you know anybody who has?

21 A. Mike McDaniel probably, but that's
22 supposition.

23 Q. Do you know how this document is used?

24 A. In seeing what the document is here, it's

1 an audit form. It would be used for a project audit
2 to verify EEO affirmative action policies that the
3 company has at the site.

4 Q. I appreciate you are reading it and know
5 what it says, but since you have not used it, you
6 don't have any knowledge on how this is actually
7 used in the field; is that true?

8 A. That's true.

9 Q. Mr. Anderson, I want to focus your
10 attention now to the part of the EEO function that
11 you -- or your EEO function at Mystic at the time
12 that you were there. I wanted to specifically know
13 whether you ever handled any complaints of
14 discrimination while you were there.

15 A. I would have been the individual that would
16 have been the primary contact if someone had a
17 problem.

18 Q. Did you actually handle any complaints? In
19 other words, did anyone complain to you of
20 discrimination while you were at Mystic?

21 A. Yes.

22 Q. How many times?

23 A. I would say approximately eight or nine
24 times. Oh, wait a minute. I'm sorry. Let me

1 think. Let's say four times.

2 Q. Four times in total?

3 A. Yes, I believe that's correct.

4 Q. And definitely my question was about people
5 who complained to you directly. Is that still four
6 times?

7 A. Directly?

8 Q. Yes. In other words, if you were involved
9 in complaints of discrimination --

10 A. That's not your question.

11 Q. Right. Just "I went to Warren Anderson,
12 and I complained about discrimination."

13 A. Let me ask for a clarification.

14 Q. Sure.

15 A. Walking in the door unannounced, knowing no
16 information about them?

17 Q. My question is geared more towards you
18 being the first person of contact. In other words,
19 they had not spoken to anybody else that you know
20 of.

21 A. Probably once.

22 Q. Who was that person, if you can recall?

23 A. Ozzie Weeks.

24 Q. Have discrimination complaints come to your

1 attention through a process of referral from other
2 individuals on the site, such as a foreman, et
3 cetera? If so, what is the number of those
4 instances?

5 A. Clarify that a bit for me.

6 Q. Sure. You said Mr. Weeks came to you
7 directly as a first person of contact. I assume --
8 and maybe I'm wrong -- that you had some involvement
9 in complaints of discrimination where you were not
10 the first person to be contacted. I wanted to know
11 if that was true, and if so, how many times was that
12 the case?

13 A. That's true, yes.

14 Q. Then how many times were you otherwise
15 involved in getting complaints?

16 A. Okay, I understand what you mean. Three
17 times.

18 Q. Do you recall the names of the individuals
19 who complained?

20 A. Godwin Enagbare, Joe Willis. I mentioned
21 Ozzie Weeks. There was another individual who was
22 a -- and I don't recall the name -- who was a
23 subcontractor employee that had a complaint against
24 one of our superintendents.

1 Q. Do you remember the name of the
2 superintendent?

3 A. John Day.

4 Q. Not counting these four times where you
5 were either approached directly or eventually by an
6 individual who was complaining of discrimination, do
7 you know of other instances where someone other than
8 you handled complaints of discrimination that arose
9 at Mystic?

10 A. At the site directly?

11 Q. Yes.

12 A. There were instances where a union BA would
13 have been involved. Site stewards certainly would
14 and could certainly be involved.

15 Q. Did those instances involve people other
16 than Mr. Weeks, Mr. Enagbare, Mr. Willis and whoever
17 it was that brought a complaint about Mr. John Day?

18 A. To my knowledge, those were the other
19 people.

20 Q. Those were the individuals you were talking
21 about?

22 A. Yes.

23 Q. Is it fair to say while you were at Mystic,
24 the only complaints of discrimination that you ever

1 heard about directly at some point were these four
2 that you just talked about?

3 A. Coming to me or in a slight roundabout way
4 coming to me, that would be correct.

5 Q. Were there other complaints of
6 discrimination that never came to you that you
7 learned about while you were at Mystic?

8 A. Yes.

9 Q. What are those, if you recall?

10 A. Wayne Henderson, Leonard Bell, Kaindoh, and
11 John Baldwin.

12 Q. I just want to as a point of reference
13 understand generally what you do in a situation
14 where someone complains to you of discrimination.
15 Maybe you can, if you want, use an example or tell
16 me generally.

17 Someone comes to your office and tells you
18 they've been discriminated against. Tell me
19 generally what procedure you would follow to handle
20 that situation.

21 A. I would want to know the full details of
22 what happened, certainly the individual or
23 individuals involved. Once you have that
24 information, it would be appropriate to talk to the

1 individuals involved, and were there witnesses to
2 the confrontation or the harassment or
3 discrimination.

4 Q. Would you talk to those witnesses if there
5 were any?

6 A. Yes.

7 Q. When you talk about this procedure, are you
8 envisioning that you would handle that yourself, or
9 would you ask somebody to help you with it if you
10 were otherwise --

11 A. I may handle it myself or I may have
12 received more information from, say, a
13 superintendent, that's very possible, yes.

14 Q. Did you say more from the superintendent?
15 I didn't understand the response.

16 A. Well, a superintendent could also be
17 involved, for instance, and have talked to a party.
18 I very well may not go back to that party. I would
19 get that information from that superintendent.
20 That's an example.

21 Q. Were there situations that you know about
22 at Mystic that a superintendent handled an EEO
23 complaint?

24 A. Define "handled."

1 Q. Do you know of any situations while you
2 were at Mystic where a superintendent received a
3 complaint of discrimination?

4 A. Directly themselves?

5 Q. Yes.

6 A. Not anyone else?

7 Q. Correct.

8 A. No.

9 Q. How about in any other way but communicated
10 to you by the superintendent, that they would have
11 learned through somebody else and it was
12 communicated to you by the superintendent?

13 A. If information was gotten that was a matter
14 of nature, somebody would call me. It may well be a
15 superintendent that heard about it. That would be
16 knowledge they would just do. They would follow up
17 on if they knew something. That's what they are
18 supposed to do.

19 Q. With respect to the orientation that's
20 given to employees when they are hired, and I
21 understand given the history of the Mystic site,
22 that probably a bunch of people were hired before
23 you even got on-site that were working, but to the
24 extent that other people were hired later where you

1 explained that people would be called from the union
2 to take certain positions that were available, I'm
3 curious about the orientation process, if any, for
4 those folks. Do you have any familiarity with that
5 process?

6 A. I knew when new hires came in, they were
7 given a drug test. They would fill out their
8 payroll paperwork. They were given, my best
9 recollection is, about an hour of safety
10 orientation, and it may have been two hours, given a
11 package of materials, job rules and safety rules for
12 the job.

13 Q. Do you know who was responsible for
14 conducting that orientation?

15 A. The safety department.

16 Q. Remind me again. That was Mr. --

17 A. Junkins.

18 Q. Do you know whether any of that orientation
19 included an orientation to WGI's EEO policies and
20 procedures?

21 A. It did not.

22 Q. During this orientation, were employees
23 given any like WGI handbook, other than the work
24 rules?

1 A. Not that I recall right now.

2 Q. If you know, how did employees learn about
3 WGI's EEO policies and procedures?

4 A. At some point in the job, I realized we had
5 a bit of deficiency on orientation. I put together
6 three postings which I also asked the safety
7 department to distribute in the future to any new
8 hires.

9 Q. Do you know approximately when that was
10 that you included those three postings?

11 A. My best recollection would be
12 August/September time frame of 2002.

13 Q. How did you come to the conclusion that you
14 had a deficiency on the orientation, in that area?

15 A. It was lacking. I mean, I don't recall the
16 reason now, but I went and looked at the new hire
17 package that they passed out, and that was not in
18 there.

19 I also thought our postings were lacking at
20 the main gate.

21 Q. When you say "lacking," do you mean
22 altogether not there or just not as clear or
23 complete as you would like?

24 A. We had a five in one poster, but I thought

1 we needed to be more specific.

2 Q. What is a five in one poster?

3 A. It's a federal poster. It has the five
4 various categories.

5 (Documents marked as Anderson
6 Exhibits 5-7 for identification)

7 Q. I'm going to show you just at once, and I
8 will hold them up or put them in front of me,
9 Exhibit 5, Exhibit 6 and Exhibit 7. When you
10 mentioned that you had put together three postings
11 on the EEO issue that we were just discussing, are
12 these the three postings that you were describing?

13 A. (Examines documents) Yes.

14 Q. Did you actually personally draft these
15 postings?

16 A. I used as a guide the examples of postings
17 that we had in the EEO manual for the company, and I
18 also didn't change much. I changed a few words, but
19 I faxed them down to McDaniel to read them over and
20 make sure they passed his scrutiny.

21 Q. And they did?

22 A. Yes.

23 Q. How did he communicate that to you?

24 A. He called me back.

1 Q. If you could look at the document entitled
2 "Complaint Procedure," which I believe is Exhibit
3 No. 5. In this form, you are not only the labor
4 relations manager but also the EEO coordinator; is
5 that true?

6 A. That's correct.

7 Q. I'm just wondering, in the third paragraph
8 from the bottom, the second sentence that says, "The
9 involvement of each supervisor in the achievement of
10 our affirmative action objectives will be a factor
11 in measuring their performance," do you see that
12 line?

13 A. No. Oh, the fourth paragraph?

14 Q. Yes, sorry.

15 A. (Examines document) Okay.

16 Q. Did any of the employees at Sithe Mystic
17 get performance evaluations?

18 A. Craft employees?

19 Q. Any employees.

20 A. Staff employees did, not craft.

21 Q. Have you ever worked on a site with WGI
22 where they did performance evaluations with the
23 craft workers?

24 A. No.

1 Q. Is there any reason why that's not done, to
2 your knowledge?

3 A. On a union project, we get referrals from
4 the hall. These individuals are assumed to be
5 professional journeymen persons, apprentices.
6 Usually the labor agreement we work under allows you
7 to reject an employee who is referred if you feel
8 their performance is not going to be proper.

9 Q. But that's, I assume, I guess from what you
10 are saying, if you know about it before they come on
11 the site?

12 A. That's right.

13 Q. What, if anything, is done to gauge the
14 performance of a craft worker on the site, if you
15 know?

16 A. The foreman's evaluation, superintendent's
17 evaluation.

18 Q. Is there any reason, from your perspective,
19 again, not having worked on one of these sites, that
20 would make it impossible or unfeasible to have a
21 performance evaluation be performed for craft
22 workers?

23 A. You would probably get an objection from
24 the unions to do that.

1 Q. But has that been explored, to your
2 knowledge?

3 A. Not to my knowledge, no.

4 Q. Back to the sentence I highlighted in
5 Exhibit 5, I'm just wondering how the involvement of
6 the supervisor in the achievement of the affirmative
7 action objectives would be measured in performance.
8 I assume that supervisors includes supervisors that
9 are not staff employees who were not getting
10 performance evaluations. I'm just wondering if you
11 could explain that a little bit.

12 A. The way this is written, it's really
13 directed to staff people.

14 Q. Who are staff people? What titles of
15 employees are encompassed in the staff?

16 A. That would be anyone beyond the level of
17 general foremen.

18 Q. Sorry, say that again.

19 A. Anyone beyond the level of general foremen.
20 General foremen and foreman are craft employees.

21 Q. Do you not consider foremen and general
22 foremen supervisors on sites?

23 A. Yes.

24 Q. Yes, they are, or yes, you do?